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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/098,527      | 03/18/2002  | G. Thomas Ennis      | NSC-108             | 6247             |

24956 7590 02/13/2004

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ALEXANDRIA, VA 22314

|          |
|----------|
| EXAMINER |
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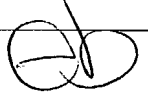
SPISICH, MARK

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| ART UNIT | PAPER NUMBER |
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1744

DATE MAILED: 02/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                 |              |   |
|------------------------------|-----------------|--------------|---|
| <b>Office Action Summary</b> | Application No. | Applicant(s) |   |
|                              | 10/098,527      | ENNIS ET AL. |   |
|                              | Examiner        | Art Unit     |  |
|                              | Mark Spisich    | 1744         |   |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 16-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 7, 9, 10, 13, 14 and 24-26 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 8, 11, 12 and 15 is/are objected to.
- 8) ☒ Claim(s) 1-26 are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/02</u> . | 6) <input type="checkbox"/> Other: ____.  |

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-15 and 24-26, drawn to a vehicle washing apparatus, classified in class 15, subclass 97.3.
  - II. Claims 16-23, drawn to a method of making a cleaning element, classified in class 300, subclass 21.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the process as claimed can be used to make another and materially different product such as one which does not have a movable support/hub.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Gene W. Stockman on 6 February 2004 a provisional election was made with the right to traverse to prosecute the invention of group I, claims 1-15 and 24-26. Affirmation of this election must be made by applicant

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in replying to this Office action. Claims 16-23 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### ***Specification***

6. The disclosure is objected to because of the following informalities: (1) "78" (page 2, line 10) should be – 70 --; (2) – 78 – should follow "hole" (page 2, line 9); and (3) – 74 – should follow "filaments" (page 2, line 6).

Appropriate correction is required.

### **Comment Re claim 5**

7. It is suggested that "second" (claim 5, line 5) be changed to – opposite – or – second – be inserted after "opposite" (claim 4, line 4). The same suggestion applies to "second" (claim 11, line 5).

### ***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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9. Claims 1-3,9,10 and 24-26 are rejected under 35 U.S.C. 102(a) as being anticipated by Kirikian (USP 6,289,544). The patent to Kirikian discloses a vehicle washing apparatus (10) comprised of a plurality of base components (12) arranged in a stacked relationship wherein each base component includes a plurality of spaced slots (28) wherein adjacent pairs of slots receive respective legs (36) of cleaning strips (18). With regard to claims 24-26, the structure of the claims has not been defined in any sufficient manner to give weight to particular brushes recited therein.

10. Claims 1,9 and 24-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Beer (USP 4,603,447). The patent to Beer discloses a vehicle washing apparatus comprised of a plurality of base components (12) arranged in a stacked relationship (see fig 2) and wherein the base components include a plurality of spaced slots (14) which receive a plurality of cleaning strips (16). See the comment above regarding claims 24-26.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 6,7,13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirikian (USP 6,289,544) in view of Ennis (USP 5,463,788). The patent to Kirikian discloses the invention substantially as claimed with the exception of the material of the

cleaning strips; however, the use of the claimed material is known for use in a vehicle washer (see column 6, lines 2-19). It would have been obvious to one of ordinary skill to have substituted any material or cleaning strip which is recognized by the art to be useful for cleaning vehicles.

***Allowable Subject Matter***

13. Claims 4,5,8,11,12 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited patents are pertinent to rotary devices with strips secured through slots.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (571) 272-1278. The examiner can normally be reached on M-Th (6-3:30), Alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J Warden can be reached on (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark Spisich  
Primary Examiner  
Art Unit 1744

MS